

**APPLICANT: JUDGE PA KOEN**

**COURT FOR WHICH CANDIDATE APPLIES: SUPREME COURT OF APPEAL**

**1. The candidate's appropriate qualifications:**

1.1. The Candidate holds the following academic qualifications:

1.1.1. BCom degree (1980) University of Natal;

1.1.2. LLB degree (*cum laude*) (1982) University of Natal; and

1.1.3. Diploma in Arbitration from the Association of Arbitrators of South Africa (1986).

1.2. The candidate is appropriately qualified.

**2. Whether the candidate is a fit and proper person:**

2.1. The candidate is currently a judge of the KwaZulu-Natal High Court.

2.2. The candidate has indicated that a complaint was lodged in respect of and concerning his office as a judge. The Judicial Conduct Committee and the Tribunal dismissed the complaint as lacking merit. This is dealt with in para 10 below.

2.3. There is nothing in the candidate's application or judgments that would suggest that the candidate is not a fit and proper person.

**3. Whether the candidate's appointment would help to reflect the racial and gender composition of South Africa:**

3.1. The candidate is a white male.

3.2. Six (6) out of the twenty-two (22) members of the SCA are white. There are eight (8) female members of the Court.

3.3. The candidate's appointment to the bench would, accordingly, not help to reflect the racial and gender composition of South Africa on the bench.

**4. The candidate's knowledge of the law, including constitutional law:**

4.1. The candidate practised as an advocate from 1988 until his appointment to the bench in 2006.

4.2. The candidate has 15 reported judgments, of which 10 were written as a single Judge, 1 in a two-Judge bench, 2 in a Full Bench appeal, and 2 sitting in the Supreme Court of Appeal.

4.3. The judgments demonstrate a wide-ranging legal knowledge, including knowledge of criminal law, constitutional law, labour law, company law, private law, and a commitment to constitutional values.

4.4. The candidate's knowledge of the law is also evident from several of his written judgments, which are indicated in the annexure hereto.

**5. The candidate's commitment to the values of the constitution:**

5.1. The candidate has written a considerable number of judgments in original and appellate criminal matters, private law, on the allocation and distribution of powers of the different spheres of government, and in several other areas.

5.2. Generally, the judgments reviewed demonstrate sound and compassionate consideration of issues raised by parties before decisions are reached, with the values of the Constitution infused.

5.3. The candidate's work in relation to the needs of the community are further evidence of his commitment to the values of the Constitution. We discuss this point below.

## 6. **Whether any judgments have been overturned on appeal:**

6.1. The candidate lists ten (10) judgments that have been overturned on appeal. We identified one further judgment which was handed down after the candidate's application. We reviewed all these judgments. One, against which no appeal was lodged, was not approved by other courts. In a few, the orders granted were simply varied. There was no overt criticism of the judgments in which appeals were upheld. We mention here only three indicative judgments in this regard.

6.2. *Valuline CC & others v Minister of Labour & others* (2013) 34 ILJ 1404 (KZP) was not directly overturned on appeal but was not approved in *SA Municipal Workers Union & Others v Mokgatla & others* (2016) 37 ILJ 1317 (SCA) & *Motor Industry Staff Association v Macun NO & others* (2016) 37 ILJ 625 (SCA).

6.3. In *Airports Company South Africa Limited v Masiphuze Trading (Pty) Limited and others* [2019] JOL 42618 (KZD); 2018 JDR 0816 (KZD), which was an action against a surety, the SCA upheld the appeal against the candidate's decision in *Airports Company SA Ltd v Masiphuze Trading (Pty) Ltd and Others* (1120/2018) [2019] ZASCA 150 (22 November 2019) [2019] JOL 46301 (SCA); 2019 JDR 2310 (SCA). The SCA considered compliance with section 6

of General Law Amendment Act 50 of 1956 and the defence of *justus error*, rejecting both as exculpating liability in terms of the suretyship. The case was remitted to the trial court for determination of the amounts owing to the plaintiff by the defendants in terms of the lease and the deed of suretyship, including the plaintiff's claim for damages for holding over.

- 6.4. *Singh and Another v Ebrahim* (3) [2010] 3 All SA 249 (D) [this case is connected to two earlier judgments between the same parties, reported as *Singh and Another v Ebrahim* (1) [2010] 3 All SA 187 (D); and *Singh and Another v Ebrahim* (2) [2010] 3 All SA 240 (D)]. The SCA amended the order with the damages awarded increased over the amount tendered in settlement in *Singh and Another v Ebrahim* (413/09) [2010] ZASCA 145 (26 November 2010). The SCA nonetheless dismissed the appeal with costs in relation to the application to amend and to lead further evidence.

## 7. **The extent and breadth of the candidate's professional experience:**

- 7.1. The candidate's professional career started off as a candidate attorney in 1985 and he practised as an attorney from 1987 to January 1988. The candidate states that he has lectured at the University of Natal (now University of KwaZulu-Natal) between 1990 and 1995 and was a member of the Law School Board from 1996 to 1998. He was a member of the Society of Advocates and practised as an advocate from 1988 to 2006, and took silk in November 1988.
- 7.2. After acting as a Judge of the KwaZulu-Natal High Court between 2004 and 2005, the candidate was appointed onto the KwaZulu-Natal bench from 1 November 2006 where he serves to date.

7.3. The candidate has acted as a judge of the Supreme Court of Appeal on four different occasions between 2014 and 2020.

7.4. The candidate's breadth of experience in the past thirty-five (35) years as a practitioner and a judge are relevant to holding higher judicial office.

**8. The candidate's linguistic and communication skills:**

8.1. From the candidate's judgments, he has excellent linguistic skills in English. His proficiency in any other language is unknown to the reviewers.

8.2. No adverse comments have been raised about the candidate's communication skills.

**9. The candidate's ability to produce judgments promptly:**

9.1. Subject to what is stated herein below, judgments penned by the candidate in the sixty-seven (67) matters which were considered were all handed down within three (3) months of the date of hearing.

9.2. The candidate stated in his response to the JSC Questionnaire that

*"To the best of my recollection I have only ever had two judgments outstanding for more than three months (but they did not exceed six months)."*

9.3. The matter of *Davies vs MEC for Health* (8700/13) was mentioned as one of those in which judgment was delayed. The candidate further stated that:

*"I rewrote the draft judgment three times with different results. I granted leave to appeal and the matter has been*

*argued before the full court in KZN, but the judgment is still awaited.”*

- 9.4. The reviewers could not locate in any of the law reports or SAFLII the judgment in *Davies vs MEC for Health* (8700/13). It appears the full court decision is that of *MEC for Health for the Department of Health of KwaZulu-Natal v Davies* (AR537/2019) [2021] ZAKZPHC 6 (21 January 2021) in which the appeal was upheld and the order of the court *a quo* set aside.
- 9.5. We are nonetheless satisfied that the candidate can produce judgments promptly.

#### 10. **The candidate’s fairness and impartiality:**

- 10.1. The candidate reported, in response to a question in the JSC questionnaire for judges, that a Mr Ramnarain Manilal, who was a litigant in a matter before him during 2013 to 2014, had reported him to the Judicial Conduct Committee. The candidate had granted an order against Mr Ramnarain Manilal directing that he furnish security for the costs of litigation. Mr Ramnarain Manilal was unsuccessful in his petition to appeal the candidate’s order to the SCA as well as in his complaints to the Constitutional Court. Mr Ramnarain Manilal’s complaint was dismissed by the Judicial Conduct Committee, and a subsequent appeal was referred by the secretariat of the Judicial Conduct Committee to the Tribunal. The Tribunal (Goliath DJP with Nkabinde ADCJ and Molemela J concurring) held that the complaint was correctly dismissed by the Judicial Conduct Committee as the Tribunal also dismissed the appeal by Mr Ramnarain Manilal.

- 10.2. In *Singh and Another v Ebrahim* (413/09) [2010] ZASCA 145 (26 November 2010) where the SCA considered an appeal against the decision of the candidate in *Singh and Another v Ebrahim* (3) [2010] 3 All SA 249, it was reported in para [104] that:

*“The appellants’ heads on the judge’s alleged bias commences with this introduction:*

*‘The perceived bias of the honourable presiding judge in the court a quo was raised for purposes of the application for leave to appeal to the court a quo and to this honourable court with full appreciation of the seriousness thereof. Despite the formidable onus to demonstrate that it is well-founded, the ground of appeal is persisted with. It is relevant in terms of the assessment of the evidence by the court a quo, the exercise of the discretion relating to various aspects of costs and contingencies, and the quantum in general.’”*

- 10.3. The SCA had no hesitation in dismissing the allegations of bias levelled against the candidate. After referencing the presumption against the partiality of a judicial officer, the court made the following pertinent remarks:

*“Bias is said to have been demonstrated by the judge’s dislike of the attorney, the counsel, the clients and their case. Next there is a rather fatuous submission that the record ‘in many instances does not reflect tone of voice and demeanour’.” [para 106]*

*“There is no evidence before us that anyone actually perceived bias in the conduct of the judge.” [para 107]*

*“The trend that the record does reflect is the exemplary patience displayed by the trial judge. There is no hint of bias in his conduct, and if here and there some irritation manifested itself, it is explained by the lengthy and largely pointless cross examination of the witnesses...” [para 108]*

*“The appellants’ counsel were driven to relying on the silliest of examples to illustrate the judge’s supposed ill-will. These examples were not relied upon before us, but were, at his request, furnished to the trial judge when he was for the first time confronted with the issue of bias during the application for leave to appeal.” [para 108]*

*“There is more of this sort of thing, all unmeritorious. It would be risible if it were not so ill-advised and so irresponsibly inadequate to support an accusation of misconduct as serious as bias. I think this court should express its dismay at this sort of baseless allegation of bias.” [para 114]*

- 10.4. There is no indication that the candidate is unfair or lacking impartiality in the judgments that he has delivered.
- 10.5. Other than what is noted herein – a matter which has no negative impact on the candidate’s ability, no adverse comments have been received.



## 11. The candidate's independent mindedness:

11.1. The candidate wrote the majority judgment in *Mahlangu and another v Minister of Police* [2020] ZASCA 44 (SCA); 2020 (2) SACR 136 (SCA); [2020] 2 All SA 656 (SCA) which was on appeal from a full court of the Gauteng Division of the High Court, Pretoria (Kollapen J, with Molopa-Sethosa and Ranchod JJ concurring). Cachalia JA and Dolamo AJA concurred in the judgment of Koen AJA. Petse DP concurred in the judgment of Van der Merwe JA where both judges dissented from the judgment of Koen AJA. Against the background of sections 12(1)(a) and 35(1) of the Constitution, the SCA had to determine the liability of the police for detention ordered by a court in relation to claims for damages for the period of the judicial detention. The candidate carefully considered and distinguished the earlier decisions which held that the police can incur liability for damages for detained persons being denied their freedom after their appearance before a court, notwithstanding the court having ordered such detention. The candidate, nonetheless, held that plaintiffs' judicial detention was not caused by their unlawful arrest. This the candidate had explained in para [23] as follows:

*“Where the police acted unlawfully “after” the unlawful arrest, any harm resulting from having “acted unlawfully” is not caused by the unlawful arrest, but is caused by that unlawful conduct, just as unlawful conduct by the police after a lawful arrest would constitute a separate delict. Whether harm was caused by that unlawful conduct must be assessed with reference to that unlawful conduct, as distinct from the arrest, whether lawful or unlawful, which*

*preceded it. Whether that separate unlawful conduct affords a remedy in law must be established in regard to that delict. If non-patrimonial damages are sought to be recovered in respect of such unlawful act under the actio iniuriarum, the special features pertaining to an unlawful arrest will not apply. The onus, in accordance with general principle, would be on the plaintiff to prove all the requirements of the actio iniuriarum, including fault in the form of animus iniuriandi. Malice is not required, only legal intent, even in the form of dolus eventualis, to injure – even in the case of malicious prosecution or malicious detention.”*

- 11.2. The separate dissenting opinion of Petse DP instead tied the judicial detention to the initial unlawful arrest, thus bringing into sharp focus the complexity of the competing basis for liability. Petse DP wrote in para [83] that:

*“In the context of a court ordained detention of an accused person, our courts have come to recognise that where the order authorising detention or further detention is not a result of a deliberative judicial process – as it happened in this case – such an order does not constitute a new intervening act capable of terminating the unlawfulness of the initial detention.”*

- 11.3. While the reviewers considered the judgments written by the candidate, we note that a separate concurring judgment was penned by the candidate in *PriceWaterhouseCoopers Inc and Others v National Potato Co-operative Ltd and Another* (451/12) [2015] ZASCA 2; [2015] 2 All SA 403 (SCA) (4 March 2015) where Fourie

and Koen AJJA concurred in the judgment of Wallis JA, and Wallis JA and Fourie AJA concurred in the judgment of Koen AJA.

11.4. The candidate's independent mind is evident in the judgments reviewed.

11.5. No adverse comments have been received.

**12. The candidate's ability to conduct court proceedings:**

12.1. Having been a judge since 2006, it is apparent that the candidate has the ability and the skills to conduct court proceedings. There is no indication from the judgments considered that the candidate is incapable of conducting court proceedings in an appropriate manner.

12.2. In the words of the candidate:

*"I have contributed and shall continue to contribute my ability to work hard and master extensive facts. This is not just an idle claim, but is illustrated by the fact that my acting appointment to the SCA from December 2014 to February 2015 was for the appeal reported as Price Waterhouse Coopers Inc and Others v the National Potato Co-operative and Another (451/12) [2015] ZASCA 2; [2015] 2 All SA 403 (SCA) (4 March 2015) an appeal which probably still is one of the most voluminous records the SCA has ever had to deal with, comprising a record exceeding 84 000 pages. Leave to appeal to the Constitutional Court was refused. Within some six months after that appeal on my return to the KwaZulu-Natal high court, I, as the junior member of a full court wrote the judgment in Shange and others v S [2017] 3 All SA 289 (KZP); [2016] ZAKZPHC 115, an extended trial involving*

*two cash in transit robberies with 26 accused and 31 charges, where the record exceeded 10 000 pages, In some six months I had thus been involved in and disposed of two appeals, apart from my other judicial work, which comprised approximately 100 000 pages.”*

12.3. No adverse comments have been received.

**13. The candidate’s administrative ability:**

13.1. The candidate displays good administrative ability displayed especially in the delivery of prompt judgments.

**14. The candidate’s reputation for integrity and ethical behaviour:**

14.1. No comments have been received in this regard. There is no reason to doubt the candidate’s integrity.

**15. The candidate’s judicial temperament:**

15.1. The judgments that have been reviewed all appear to give thorough consideration to the issues.

15.2. No unfavourable comments have been received.

**16. The candidate’s commitment to human rights, and experience with regard to the values and needs of the community:**

16.1. The candidate indicates recognition, with an Award in 2018, by the Pietermaritzburg Community Chest in respect of services rendered.

16.2. From publicly available information, the following is recorded about the Community Chest:

*“The work of the PMB & District Community Chest is firstly informed by recognizing 4 key social issues that colour the South African socio-political landscape and secondly, by identifying critical community impact partners (CIPs), all of whom work at grassroots level within the community to add to the impact required to bring about social transformation for the better in our community.*

*The PMB & District Community Chest team are instrumental in galvanizing members of our community to give of their resources – both financial and in-kind, which the Community Chest then allocates on an annual basis to its CIPs (100% donated is 100% distributed!) which together with the CIPs own resource mobilisation efforts enables the CIPs to deliver their services to those in our community who are in need of such.*

*An added and critical element of the Community Chest’s work is to support the professional development of other NPOs and CBOs within our community, thereby ensuring that over time, our NPO/CBO Sector offers only professional and high quality service to our community.”*

- 16.3. The candidate’s commitment to the values and needs of the community is plain from the four (4) key social interventions (as identified by the Community Chest), that is, (i) education, (ii) health, (iii) stable income-generation, and (iv) community.
- 16.4. The candidate has been involved, while counsel, in the training of attorneys as a lecturer at the Practical Training Schools, and the training of Regional Court Magistrates and aspirant judges. The

candidate is still involved in the training of pupils in Pietermaritzburg.

**17. The candidate's potential:**

17.1. Four factors were considered:

17.1.1. cases in which the candidate took part on the appeal bench of the KwaZulu-Natal High Court and the number of judgments penned;

17.1.2. acting stints on the SCA;

17.1.3. number and substance of the candidate's own decisions which have been overturned on appeal; and

17.1.4. cumulative experience as a judge.

17.2. We conclude that the candidate has the potential to bring a wealth of experience to the appellate bench.

**18. The message that the candidate's appointment would send to the community at large:**

18.1. That contribution to transformation and fidelity to the values of the Constitution should not be viewed solely through a race or gender prism.

18.2. The candidate's many years of service to the judiciary, the community and the country are valued, and the candidate's extensive experience would contribute to the jurisprudence of our constitutional democracy.

**ANNEXURE: LIST OF JUDGMENTS CONSIDERED****Reported decisions:**

*Botha NO v Deetlefs And Another* 2008 (3) SA 419 (N)

*BR v LS* 2018 (5) SA 308 (KZD) (11830/2016) [2018] ZAKZDHC 23; 2018 (5) SA 308 (KZD) (15 June 2018)

*Cape Bar Council v Judicial Service Commission and Others* (11897/2011) [2011] ZAWCHC 388; 2012 (4) BCLR 406 (WCC); [2012] 2 All SA 143 (WCC) (30 September 2011)

*Dube and others v Zikalala and others* (7904/2016P, 12 September 2017) [2017] 4 All SA 365 (KZP)

*Govender NO and Others v Gounden and Others* 2019 (2) SA 262 (KZD)

*Independent Institute of Education (Pty) Ltd v Kwazulu-Natal Law Society and others* [2019] 2 All SA 399 (KZP); [2019] JOL 41207 (KZP); [2019] ZAKZPHC 6 (KZP); 2019 (4) SA 200 (KZP)

*Magudu Game Company (Pty) Ltd v Mathenjwa NO and Others* [2008] 2 All SA 338 (N)

*Mahlangu and another v Minister of Police* [2020] ZASCA 44 (SCA); 2020 (2) SACR 136 (SCA); [2020] 2 All SA 656 (SCA);

*MEC, Department of Co-operative Governance and Traditional Affairs v Nkandla Local Municipality and others and a related matter* [2019] 3 All SA 772 (KZP); (2019) 40 ILJ 996 (KZP); [2019] JOL 41178 (KZP); [2019] ZAKZPHC 4 (KZP)

*Media 24 (Pty) Ltd and Others v Department of Public Works and Others* (2186/2015) [2016] ZAKZPHC 52; [2016] 3 All SA 870 (KZP) (10 June 2016)

*PriceWaterhouseCoopers Inc and Others v National Potato Co-operative Ltd and Another* (451/12) [2015] ZASCA 2; [2015] 2 All SA 403 (SCA) (4 March 2015)

*Reay and another v Netcare (Pty) Ltd t/a Umhlanga Hospital and others* (8164/07, 8 August 2016) [2016] 4 All SA 195 (KZP)

*Shange and others v S* [2017] 3 All SA 289 (KZP); [2016] ZAKZPHC 115

*Singh and Another v Ebrahim (1)* [2010] 3 All SA 187 (D); *Singh and Another v Ebrahim (2)* [2010] 3 All SA 240 (D); and *Singh and Another v Ebrahim (3)* [2010] 3 All SA 249 (D)

*Valuline CC & others v Minister of Labour & others* (2013) 34 ILJ 1404 (KZP)

### **Unreported Decisions:**

*Abajabuli Project Services CC v Uthekela District Municipality* (AR35/18) [2019] ZAKZPHC 54 (1 July 2019)

*Abaqulusi Local Municipality and Others v Premier of the Province of KwaZulu-Natal and Others* (3357/2020P) [2020] ZAKZPHC 30 (30 July 2020); 2020 JDR 1493 (KZP)

*Afrisun KZN (Pty) Limited t/a Afrisun Casino & Entertainment Kingdom v Premier of KwaZulu-Natal and Others; Premier of KwaZulu-Natal and Others v KwaZulu-Natal Gaming and Betting Board and Others* (1366/15) [2018] ZAKZPHC 25 (22 June 2018)



*Ansari and another v Barakat and others In re: Barakat v Copper Sunset Trading 424 (Pty) Limited (in liquidation) and others* (5530/2011) [2012] ZAKZDHC 1 (16 January 2012); [2012] JOL 29516 (KZD)

*Astill v Lot 54 Falcon Park CC* (AR 447/2011) [2012] ZAKZPHC 10 (20 February 2012); [2013] JOL 30169 (KZP)

*Buthelezi v S* (AR358/16, judgment 29/03/2018) [2019] JOL 42709

*Carmel Nurseries CC v Dube Tradeport Corporation; In re: Carmel Nurseries CC v Dube Tradeport Corporation* (7660/2014) [2016] ZAKZPHC 53 (21 June 2016)

*Castelyn v Sellick and Another* (AR767/2010) [2017] JOL 39354 (KZP); [2016] ZAKZPHC 108 (13 December 2016)

*Cedarwood Properties (Pty) Limited v Dickinson and Theunissen Inc and another (Dold as third party)* (9902/2017P) [2019] ZAKZPHC 59 (29 August 2019); [2019] JOL 45643 (KZP)

*Cele and others v State* (AR 237/2001) [2012] ZAKZPHC 7 (1 January 2012); [2012] JOL 29774 (KZP)

*Enza Construction (Pty) Ltd v Paarl Tissue (Pty) Ltd* (2100/2018P, judgment 28/09/2018) [2019] JOL 42810 (KZP)

*Essop v National Director of Public Prosecutions and Others* (7122/19P) [2020] ZAKZPHC 57 (5 October 2020); 2020 JDR 2162 (KZP)

*Finance Factors CC v Jayesem (Pty) Ltd and Others* (5304/2013) [2013] ZAKZDHC 45 (22 August 2013)

*Flexi Holiday Club v La Lucia Sands Shareblock Limited* Case No: 19/2002 04-09-2014; 2014 JDR 1807 (KZD)

*Instand Trade 110 CC v Lewis and others* [2013] JOL 30950 (KZP)

*Kruger v Thompson* (10662/2009) [2012] ZAKZPHC 62 (26 September 2012)

*KwaZulu-Natal Joint Liaison Committee v MEC Department of Education, Kwazulu-Natal and Others*

*KwaZulu-Natal Law Society v Moodley and Another* (6399 /2018) [2018] ZAKZPHC 67 (26 November 2018); [2018] JOL 40617 (KZP)

*Lanarco Home Owners Association v Prospect SA Investments 42 (Proprietary) Limited* 2014 JDR 2273 (KZP); 9381/14) [2014] ZAKZDHC 44 (29 October 2014)

*Maharaj v Gold Circle (Pty) Ltd* (AR514/2008) [2016] JOL 35789 (KZD)

*Maharaj v Government of the Republic of South Africa* [2013] JOL 29771 (KZD)

*Manline (Pty) Ltd v Mtshali* [2017] JOL 39386 (KZP)

*Marubeni Corporation and others v Intergis Co Limited* [2016] JOL 36821 (KZD)

*Mbotho v Jiyane* [2008] JOL 21206 (N) [Coram Koen, Niles-Dunèr JJ]

*Microsure (Pty) Ltd & others v Net1 Applied Technologies SA Ltd* [2011] JOL 27980 (N)

*Mncwango N.O v Ngcobo and others* [2019] JOL 41616 (KZD)

*Moodley v Renasa Insurance Company Limited and Others* (9443/2010) [2016] ZAKZDHC 13 (31 March 2016); 2016 JDR 0620 (KZD)

*MVD v CJVD* [2014] JOL 31273 (KZP)

*Nel v Bank of Baroda* 2016 JDR 0871 (KZD); (11602/14) [2016] ZAKZDHC 19  
(12 May 2016)

*Ngobese v MEC for Health, KZN* (1287/14, judgment 04/04/2018) [2019] JOL  
43767 (KZP)

*Nyawuza v S* (AR 262/13) [2014] ZAKZPHC 47 (16 September 2014); [2014]  
JOL 32320 (KZP)

*Pickford v Watermans Guarantees Trust & another* (AR 514 / 04) [2006] JOL  
16812 (N)

*Poppy Ice Trading 18 (Pty) Limited v KwaZulu -Natal Gaming and Betting Board*  
(4818/16P, October 10, 2016) 2016 JDR 1973 (KZP)

*Raghavjee v Honourable Minister, Safety & Security & others* (2002 / 06,  
24/01/2008) [2008] JOL 21369 (N)

*Reddy v Reddy and others* (11174/15, judgment 24/03/2016) [2016] JOL 35569  
(KZD)

*Revertex Chemicals (Pty) Ltd v Climax Lift Hire (Pty) Ltd* (369/2002) [2012]  
ZAKZPHC 36 (1 June 2012)

*S v Khathide* Case no AR 349/17; 2020 JDR 1395 (KZP)

*S v Khumalo* (AR 398/2017, 29 July 2019) 2019 JDR 1385 (KZP)

*S v Khumalo* (AR717/97) [2018] ZAKZPHC 9 (16 February 2018); [2019] JOL  
43065 (KZP); 2018 JDR 0490 (KZP)

*S v Madondo* 2016 JDR 2294 (KZP) Koen J, and Chetty J

*S v Makhanya* Case No: AR735/2016 23-11-2018 KZP

*S v Ngcobo* 2016 JDR 0522 (KZP)

*S v Ntuli* 2018 JDR 1530 (KZP) AR 60/2016 2018 JDR 1530 (KZP)

*S v TB* Case No: AR 358/16 29-03-2018

*S v Van Helsdingen* (AR566/18) [2020] ZAKZPHC 38 (17 August 2020); 2020 JDR 1607 (KZP)

*S v Zulu* 2012 JDR 0733 (KZP)

*Shepstone House Two Ltd v Msunduzi Municipality and others* (3796/2012, judgment 07/08/2012) [2016] JOL 35348 (KZP)

*Siyakhuphuka Investment Holdings (Pty) Ltd v Ports Regulator of South Africa Transnet SOC and Others* (5520/2016) [2018] ZAKZDHC 19 (21 May 2018); 2018 JDR 0679

*Somai v National Minister: Department of Energy and others* (7690/2017, judgment 22/02/2019) [2019] JOL 41219 (KZP)

*Stainbank v S* (AR258/07, judgment 04/06/2013) [2013] JOL 30403 (KZP)

*Theodor Hans Pratsch t/a Caltex Mooi River v Rasmussen* (10369/04, judgment 07/06/2017) [2009] JOL 23955 (N)

*Tugh N.O. and another v Rajbansi and others* (9220/2015, judgment 15/05/2018) [2019] JOL 44549 (KZD)

*University of Kwazulu-Natal v Independent Newspapers (Pty) Ltd and others* [2018] JOL 40414 (KZD)

*Upper Highway Air NPC v Enviroserv Waste Management (Pty) Ltd* (3692/2017) [2018] ZAKZDHC 37 (31 July 2018); 2018 JDR 1212 (KZD)

*Xulu v S* (AR242/18) [2020] ZAKZPHC 34 (31 July 2020)

**Judgments upheld on appeal:**

*Cape Bar Council v Judicial Service Commission and Others*; 2012 (4) BCLR 406 (WCC); [2012] 2 All SA 143 (WCC)

*Clearing Agents, Receivers & Shippers v The Member of the Executive Council: Transport, KwaZulu-Natal, and Minister of Transport and Commissioner for the South African Revenue Service* [Unreported]

*Cwele and another v S*

*Gainsford v Argent Industrial Limited* [Unreported]

*Hibiscus Coast Municipality v Steyn and Others* (9827/2010) [2014] ZAKZDHC 45 (29 October 2014)

*Intech Instruments v Transnet Ltd t/a South African Port Operations* (4690/2008) [2017] ZAKZDHC 49 (1 November 2017)

*Kwa Sani Municipality v Underberg/Himeville Community Watch Association and Another* [2013] ZAKZPHC 60 (KZP)

*Magudu Game Company (Pty) Ltd v Mathenjwa N.O and Others* [2008] 2 All SA 338 (N)

*Malani v Natalia Financial Brokers CC* 2016 JDR 1039 (KZP)

*Moor and Another v Tongaat Hulett Pension Fund and Others* (2118/2014) [2016] ZAKZDHC 55 (22 December 2016)

*Reddy v ABSA Bank Limited and others* [2015] JOL 33305 (SCA)

*Robertson v Hangar* [Unreported judgment dated 19 January 2015]

*Shoprite Checkers (Pty) Ltd v Everfresh Market Virginia (Pty) Ltd (previously known as Wild Break 166 (Pty) Ltd)* [2010] JOL 25835 (KZP)

*Reddy v ABSA Bank Limited and others* [Unreported]

*Transnet Ltd v Newlyn Investments (Pty) Ltd* [Unreported]

**Judgments overturned on appeal:**

*Airports Company South Africa Limited v Masiphuze Trading (Pty) Limited and others* [2019] JOL 42618 (KZD); 2018 JDR 0816 (KZD);

*Craig NO v Minister of Safety and Security and others* (unreported)

*Essay N.O. and Others v Governing Body of the Juma Masjid Primary School & Others* [unreported]

*Jerrier v Outsurance Insurance Company Ltd* 2013 JDR 0562; [2013] ZAKZHC 11

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